

PETITION NO. 1101 - New Cingular Wireless PCS, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required to install a stealth rooftop telecommunications tower on the roof of the existing building located at 79 Park Avenue, Danbury, Connecticut.	} } }	Connecticut Siting Council
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October 2, 2014

Decision and Order

Pursuant to Connecticut General Statutes §16-50k(a) and Connecticut General Statutes §4-176 and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the installation of a stealth rooftop telecommunications tower at 79 Park Avenue in Danbury, Connecticut will not have a substantial adverse environmental effect and, pursuant to General Statutes § 16-50k(a), hereby declares that the project will not require a Certificate of Environmental Compatibility and Public Need.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council's record in this matter, and subject to the following conditions:

1. The tower shall be constructed within a stealth housing to be constructed as an extension to an existing stairwell tower. The top of said stealth housing shall not exceed a height of 53 feet above ground level. The stealth housing shall be given architectural treatment, which may include fenestration, to make it more compatible to the surrounding neighborhood.
2. The Petitioner shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the City of Danbury for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the stealth housing and antenna support structure, antennas, equipment room, radio equipment, access road, utility line, emergency backup generator and protective measures; and
 - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
3. Within 90 days of the commencement of the facility's operation, the Petitioner shall conduct and submit to the Council a Radio Frequency Exposure Report on the levels of radio frequency emissions from the facility. This report shall include measurements on the grounds of the apartment building at 79 Park Avenue, at different locations around the penthouse apartments on the building at 79 Park Avenue, and at different locations around the grounds of the Park Avenue Elementary School. This report shall comply with applicable regulations for such field studies as are adopted by the Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, Edition 97-01. The Petitioner may request an extension of time for the submittal of this Report by submitting a written request to the Council.

4. Upon the establishment of any new applicable State or Federal radio frequency emission standards, the facility granted herein shall be brought into compliance with such standards.
5. The Petitioner shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
6. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed with at least one fully operational wireless telecommunications carrier providing wireless service within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Petitioner shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Petitioner shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
7. Any request for extension of the time period referred to in Condition 6 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the City of Danbury. Any proposed modifications to this Decision and Order shall likewise be so served.
8. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Petitioner shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council within 90 days from the one-year period of cessation of service. The Petitioner may submit a written request to the Council for an extension of the 90-day period not later than 60 days prior to the expiration of the 90 day period.
9. Any nonfunctioning antenna and associated antenna mounting equipment, on this facility shall be removed within 60 days of the date the antenna ceased to function.
10. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Petitioner shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Petitioner shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.
11. The Petitioner shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v.
12. This Facility may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Petitioner/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Petitioner/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.
13. The Petitioner shall maintain the facility and associated equipment, including but not limited to the stealth housing and antenna support structure(s), antennas, equipment room, radio equipment, access road, utility line and landscaping, in a reasonable physical and operational condition that is consistent with this Decision and Order and a Development and Management Plan to be approved by the Council.

14. If the Petitioner is a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the Petitioner within 30 days of the sale and/or transfer.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed in the Service List, dated June 16, 2014, and notice of issuance published in the Danbury News-Times.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.